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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.       | CONFIRMATION NO. |
| 09/904,741   | 07/13/2001  | Ronald G. Brock SR.  | 37180.0100                | 3364             |
| 33717 7590 01/24/2007<br>GREENBERG TRAURIG LLP<br>2450 COLORADO AVENUE, SUITE 400E<br>SANTA MONICA, CA 90404 |             |                      | EXAMINER<br>MILEF, ELDA G |                  |
|  |             |                      | ART UNIT<br>3692          | PAPER NUMBER     |
| SHORTENED STATUTORY PERIOD OF RESPONSE   |             | MAIL DATE            | DELIVERY MODE             |                  |
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Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 09/904,741             | BROCK, RONALD G.    |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Elda Milef             | 3692                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10/30/2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) 5, 18-40 and 46-50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-17, 41-45 and 51-57 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 56 recites the limitation "the basis" in line 3. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1,2,4,57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dugan (U.S. Patent No. 5,857,174) in view of Khedkar et al. (hereinafter Khedkar U.S. Patent No. 6,609,118).

**Re claim 1:** Dugan discloses:

a real estate database storing data for each of said plurality of real estate properties, said data comprising at least one of address data, ownership data, physical characteristics data, size data, geographic location data and monetary value data wherein said real estate database further stores an actual monetary value for each of said plurality of real estate properties, a plurality of monetary value-effective characteristics generally associated with real estate properties-see ("database") col. 6 lines 19-65, ("The database 24 stores each property as a separate searchable record. The sales data for each property can then be compared with other sales for an ongoing indication of market values by each property, class, size, category, or other similar factors...The weights or preferences are preferably arranged into five categories 110, including Location 112...Facilities 116...")-see col. 7 lines 4-32, col. 8 lines 11-18,

an interface system for enabling a system user to input a request for a comparison of at least a portion of said data of said at least two of said plurality of real estate properties, said request comprising information sufficient to identify said at least two of said plurality of real estate properties, wherein said request comprises the selection of physical rating

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parameter and/or location rating parameter ("The buyer is able to indicate the relative values by selecting amongst the range of allowed IPS values for each category 110.")-see col. 7 lines 36-65, , col.9 lines 44-48,col. 10 lines 65-col. 11 line 5, col. 12 lines 11-24;

a processor which uses said information to obtain said comparison of at least a portion of said data of said at least two of said plurality of real estate properties, wherein said processor is configured to provide a physical rating and a location rating for each of said at least two of said plurality of real estate properties; -see col.9 lines 20-62, col. 11, lines 5-13;

and a delivery system for providing to said system user said comparison of at least a portion of said data of said at least two of said plurality of real estate properties, comparison comprises, for each of said at least two of said plurality of real estate properties, said physical rating, said location rating, said actual monetary value; and said market standard monetary value; and wherein said physical rating parameter and/or said location rating parameter are used to select the at least two of said plurality of real estate properties provided in said

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comparison.-see col. 7 lines 60-65, col. 8 line 50- col. 9 line 3, col. 11 lines 6-12m col. 12 lines 46-52, col.14.

Although Dugan discloses categories of elements and an IPS value used to arrive at an appraised value of the subject property-see cols. 4 and 5 and that dollar adjustments used to reduce or increase the value of a subject property based on important attributes based on general distinctions of time, location and physical characteristics has been done by appraisers in the past-see Background of the Invention col.1, Dugan does not specifically disclose that a standard monetary value for each of said plurality of monetary value-affecting characteristics is applied and wherein said processor is configured to use at least one of said standard monetary value for each of said plurality of monetary value-affecting characteristics to obtain a market standard monetary value for each of said at least two of said plurality of real estate properties. Khedkar, however teach ("FIG. 11 shows possible adjustments 210 (in thousands of dollars to a comparable's price, as a function of the different number of bathrooms between the subject and comparable property...")-see col. 10 lines 32-59, and cols. 8-13. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Dugan to include applying

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a standard adjustment value pertaining to a particular attribute as taught by Khedkar in order to determine a measurement of similarity between each comparable property and the subject property.

**Re claim 2:** Dugan discloses:

an input system configured to permit the inputting of real estate property data into said database.-see col. 6, lines 39-44 and col. 9, lines 10-19.

**Re claims 4:** Dugan do not specifically disclose wherein the comparison further comprises a list presented to said system user of each said standard monetary value used by said processor to obtain said market standard monetary value for each of said at least two of said plurality of real estate properties. Khedkar however, teaches a system wherein ("Each property's sales price is adjusted to better reflect the subject property's value by using a rule set that uses additional property attributes, such as for example, construction quality, conditions, pools, fireplaces, etc.")-see cols. 8-10, and Fig. 12 and related text.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Dugan to include a display including the monetary adjustments made to a

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comparable property's sale price to arrive at an adjusted price as taught by Khedkar in order for the user to view the factors influencing the differences in the valuation of the properties.

**Re claim 57:** Dugan discloses selection of unit type for use in searching real estate database-see fig, 6a (136) Residence and Fig. 7a Rural Residential Acreage.

3. Claims 6-17, 41-45, 51-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dugan in view of Apgar (U.S. Patent No. 5,680,305).

**Re claim 6:** Dugan discloses:

selecting a plurality of physical factors generally associated with real estate properties of a type similar to that of the subject real estate property("It is another object of the invention to provide a real estate appraisal method that sets standardized, objective, and well-defined factors used to appraise property so as to be easily understood and applied...")- see col. 4 lines 53-67, Figs. 6 (a,c,e,g,i,k) -see FACILITIES and IMPROVED;

attributing a weight indicator having a numerical representation to each of said plurality of physical factors-see "I.P.S." values), Figs. 6 (a,c,e,g,i,k) and col. 7 lines 14-40;



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dividing said plurality of physical factors into a plurality of sets each having a number of physical factors, said number comprising at least two, wherein said weight indicators of each of said plurality of physical factors in said each of said plurality of sets is equal. The Facilities and Improved sets are made up of a number of physical attributes which are considered when determining the IPS value. The I.P.S value taught by Dugan in each set (Facilities or Improved) are the same for that set, for example in Figure 6(a), the total IPS value for the category Facilities is 15 and the category Improved is 35.

evaluating each of said plurality of physical factors and attributing to each of said plurality of physical factors a factor score; obtaining a total weighted score based on said plurality of factor scores ("After the heading information, six categories 110 are listed, including the five categories previously described with respect to evaluation slide 26...Next to each category 110 is a list of illustrative competitive desirability factors 125. These desirability factors 125 allow the appraiser or buyer that is filling out the form, to have some indication as to what attributes of the comparable property is to be assessed for each particular category 110")-see col. 9 lines 39-48. In order to arrive at an I.P.S. value for each

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category (set) of physical factors, the user in Dugan must evaluate the property based on the desirability factors 125. Therefore, it is obvious from the teachings of Dugan, that the desirability factors must be assigned some sort of score or weight in order for the user to derive a total IPS value for the particular category (set).

Dugan discloses a weighted score for the categories of Facilities and Improved which are used to assess physical attributes of a property. Furthermore, Dugan teaches ("However, the categories 110 and weights may be adjusted to better account for the various real estate markets, such as commercial, retail and residential properties, as well as for various locations, such as rural, suburban, and urban properties...")-see col. 13 line 50- col. 14, and Figs. 6a-6m, 7a-7i. It is obvious from the teachings of Dugan that the categories relating to physical factors, i.e. Facilities and Improved could be assigned weights equal to an IPS value of 100 thereby allowing a user to obtain a physical rating.

**Re claim 7:** Dugan does not explicitly disclose:

multiplying each factor score for each of said plurality of physical factors by said weight indicator attributed to said each of said plurality of physical factors to obtain a weighted

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score for said each of said plurality of physical factors. Apgar however, teaches a system and method for evaluating real estate including (Indicator means a quantitative measure of a particular factor affecting Real Estate. The score is generally determined by five indicators...Weighting Factor is used to denote an empirically determined adjustment for each indicator..."-see cols. 2-3, also col. 8, lines 44-48 and cols. 7-15(Amount, Price, Grade);

Although Dugan discloses an I.P.S value being total weighted score for each category derived by evaluating attributes pertaining to the category, e.g. water mains, electricity in the Facilities category, and a Total Competitive Standard's Ratio being a total weighted score for all categories see Fig. 6a and related text, Dugan does not explicitly state for each of said plurality of sets, adding said weighted scores for each of said plurality of physical factors in said each of said sets to obtain a total score for said each of said plurality of sets. Apgar however, teaches adding the weighted amount for each indicator to arrive at a total weighted indicator score.-see fig. 21, col.16, lines 49-60, col.21, lines 57-63.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to

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modify Dugan to include multiplying each factor score for each indicator to obtain a weighted score and adding the weighted indicators to arrive a total weighted indicator as taught by Apgar in order for the user to gain an understanding of what factors influenced the valuation of real estate property.

Although Apgar discloses weighted scores for each indicator and a total weighted score as a rating in Fig. 21, Apgar does not specifically disclose:

dividing each of said total scores for each of said plurality of sets by said number of physical factors in said each of said plurality of sets to obtain an average score for said each of said plurality of sets;

adding said average scores for each of said plurality of sets to obtain a total weighted score.

Official Notice is taken that it is old and well known in the art of Finance that weighted averages are commonly used to arrive at a comprehensive number representing proportions of multiple elements. For example, weighted averages are commonly used in the valuing the cost of capital. Therefore, It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Apgar to include calculating a weighted average score in order to provide the

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user with another means of determining a value to be used as a total indicator.

**Re claim 8:** Dugan discloses:

adding said weighted indicators of said plurality of sets of physical factors to obtain a total weight indicator. Dugan however, shows ("The total possible IPS value for any property is 100...")-see col. 5, lines 3-4, and see Figs. 6a, 6c, 6g, 6i, 6k ("Total Competitive standard's ratio = (100)";

dividing said total weighted score by said total weight indicator to obtain a physical score. -see Dugan Fig. 7i, ("Total Standard Units 79%, 59%, 92%").

**Re claims 9, 10, 11:** Dugan discloses wherein the subject real estate property is an apartment complex, single family home, commercial property-see col. 4 lines 49-51.

**Re claim 12:** Apgar does not specifically disclose:

converting said physical rating to an alphabetic score.

Official notice is taken that it is old and well known in the art that converting a numerical score to an alphabetical score is common. For example, it is common for teachers to grade tests using a numerical score and then convert the score into a corresponding alphabetic score i.e. 90-100=A. It would have been obvious to one having ordinary skill in the art at the time

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the invention was made to modify Apgar to include converting a numerical rating to an alphabetical one in order to provide a rating that may be easier for the user to understand and make a quick association to its meaning.

**Re claim 13:** Claim 13 has similar limitations found in claim 6, 7, and 8 in combination, and is therefore rejected using the same art and rationale.

**Claims 14, 15, 16, 17, 45** have similar limitations found in claims 9-12 above, and therefore are rejected by the same art and rationale.

**Claim 41** has similar limitations found in claims 1 and 6 in combination and is therefore rejected using the same art and rationale.

**Claim 42** has similar limitations found in claim 6 above, and therefore are rejected by the same art and rationale.

**Claim 43** has similar limitations found in claim 7 in above and is therefore rejecting using the same art and rationale.

**Claim 44** has similar limitations found in claims 6 and 7 in combination and is therefore rejecting using the same art and rationale.

**Claim 51** has similar limitations found in claim 6 above, and therefore is rejected by the same art and rationale.

**Re Claim 52 and 53:** Dugan disclose wherein the predetermined category is physical characteristic and location.- see Figs. 6a-6m and related text.

**Claim 54** has similar limitations found in claim 41 above, and therefore are rejected by the same art and rationale.

**Re claim 55:** Dugan discloses wherein said delivery system provides to said user a property comparison report comprising: a comparison of physical and location ratings for at least two of said plurality of real estate properties-see Figs. 6m, 7i and related text.

**Re claim 56:** Dugan does not disclose wherein said property comparison report further comprises a comparison of market standard rental rates along with the basis upon which the market standard rental rates were calculated. Apgar however, teaches (Calculate the average Rent/SF for each SIC code....)-see col. 9 lines 5-39 and cols. 2-6 (rent and SIC), col. 8. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Dugan to include a calculation of average rent as taught by Apgar in order assist a user in making real estate decisions based on comparable real estate rentals as a factor.

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4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dugan in view of Three (*Three More Companies Become WebLink Wireless Enterprise Solutions Partners: Datamatic, LynkUs and VoiceLink Join 19 Other Companies in Wireless Data Effort.* Pr Newswire, New York: May 4, 2000. pg.1).

**Re claim 3:** Dugan does not disclose:

a subscriber database for storing data relating to subscribers to said system. Three however, shows ('LynkUs.com is a developer of Web-based services specifically for wireless subscribers. Through the ESP program, LynkUs plans to develop wireless data content for several industries. One key project, for the real estate industry, will provide wireless links to the Multiple Listing Service so realtors can access listings from their wireless devices, even when they're out of the office.") - see p.2, para. 2. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Dugan to include allowing only subscribers to access a database such as the Multiple Listing Service shown by Three in order to provide a secure and controlled means of accessing data.



***Response to Arguments***

5. Applicant's arguments with respect to claims 1-4, 6-17, 41-45, 51-56 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elda Milef whose telephone number is (571)272-8124. The examiner can normally be reached on Monday -Thursday 8:30 am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571)272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
RICHARD E. CHILCOT, JR.  
SUPERVISORY PATENT EXAMINER

Elda Milef  
Examiner